

ASHWANI K BHAKHRI,	No	C-05-3260 VRW
Plaintiff,		ORDER
v		
BRIJ MOHAN DHIR,		
Defendant.		

On October 26, 2005, Bhakhri responded to the show cause order by agreeing with the court's reasoning in that order and

1 requesting that the court remand this case to state court. Doc
2 #10. On October 28, 2005, Dhir filed a declaration stating that he
3 had served the relevant parties with the notice of removal in a
4 timely manner, thus addressing whether his removal satisfies the
5 procedural requirements of 28 USC § 1446(d). Doc #11.

6 Dhir then addressed whether his removal satisfies 28 USC
7 § 1441(b) in a second declaration filed on November 2, 2005, two
8 days after the October 31, 2005, deadline. Doc #12. Dhir
9 explained that "[t]his [case] is not a general removal under
10 section 1441 of Title 28; but, special removal under section 1443
11 following section 1334 of Title 28 for civil rights federal
12 jurisdiction." Id at 3. Section 1334 deals with bankruptcy
13 proceedings and is inapplicable. Instead, Dhir would seem to refer
14 to 28 USC § 1343, which Dhir has cited elsewhere in his second
15 declaration and which provides for federal jurisdiction over
16 certain civil rights claims.

17 The court does not have to consider Dhir's second
18 declaration, as it was filed after the October 31, 2005, deadline.
19 But in any case, removal under either 28 USC § 1443 or § 1343, as
20 Dhir has alleged, is improper here.

21 Section 1443(2) is inapplicable here because Dhir was
22 neither a federal officer nor a person assisting a federal officer
23 in performance of his official duties as required under this
24 statute. See Greenwood v Peacock, 384 US 808, 814-24 (1966). 28
25 USC § 1443(1) also does not apply because Dhir has not shown that
26 he was deprived of rights guaranteed by a law providing for equal
27 civil rights. Bhakhri has asserted only a state law libel claim,
28 Doc #1 at Ex A, which does not arise under the Constitution,

1 treaties or laws of the United States, much less provide for
2 "equal" civil rights within the meaning of section 1443(1). Id at
3 825. Accordingly, 28 USC § 1443(1) does not provide a basis for
4 removal.

5 Moreover, 28 USC § 1343 does not create federal
6 jurisdiction over Bhakhri's claim that would justify removal as
7 that claim does not implicate civil rights or elective franchise.
8 See Buerger v Southwestern Bell Telephone, 982 F Supp 1253, 1255-56
9 (ED Tex 1997); Spampinato v M Breger & Co, 166 F Supp 33, 35-36
10 (EDNY 1958). Hence, no jurisdiction exists under 28 USC § 1343.

11 Accordingly, the court REMANDS the case to Alameda County
12 superior court. The clerk is DIRECTED to close the file and
13 TERMINATE all motions.

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15 IT IS SO ORDERED.

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18 VAUGHN R WALKER

19 United States District Chief Judge
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